

Exhibit 31

UNITED STATES OF AMERICA
DEPARTMENT OF LABOR
EMPLOYMENT BENEFITS ADMINISTRATION

In the Matter of the)
Investigation of:)
)
U.A. LOCAL 38 EMPLOYEE) Case No. 70-010-846
BENEFIT PLANS)

TELEPHONIC ADMINISTRATIVE DEPOSITION

OF LARRY MAZZOLA, SR.

San Francisco, California

Wednesday, September 3, 2003

Reported by:
ELAINE A. DELLINGES
CSR No. 5049
Job No. 45852A

MZLA 0001043

1 A Well, my recollection is I think I was
2 appointed on the Board of Trustees in 1972. For sure
3 since '75 since I was elected business agent, but as
4 memory recalls I was on a couple of years before that,
5 so I think it was '72 that I was appointed as a trustee.

6 Q And when did you become the cochairman?

7 A I became the cochairman I think in late '89 or
8 early 1990. I held the position of secretary before
9 that.

10 Q What are the responsibilities of the
11 cochairman?

12 A The responsibilities of the cochairman are to
13 chair the meetings, find out from the administrator the
14 agenda items so we can all know what's coming. And
15 basically that's about it.

16 Q What does the chairman do that's distinct from
17 the cochairman?

18 A No, they are equal. I had said that earlier.

19 Q So do each of you lead the same meeting or do
20 you alternate?

21 A No, Mr. Buckley normally chairs the actual
22 meetings.

23 Q I see.

24 A And when he's not there, I do. But he actually
25 takes the chairmanship of handling the gavel and

1 handling the agenda items.

2 Q The Joint Board of Trustees is responsible for
3 a number of different employee benefit plan trusts, is
4 it not?

5 A It is.

6 Q Which are those?

7 A Well, they are the Pension Trust, the Health
8 and Welfare Trust, the Vacation and Holiday Trust,
9 Apprenticeship Trust, Jury Duty Trust, I think there is
10 a Scholarship Trust. I think that's probably it. I
11 don't have them all listed in front of me.

12 Q All right. Are there other trusts affiliated
13 with the union?

14 A Those that are in the Collective Bargaining
15 Agreement, is that what you're referring to?

16 Q Yes.

17 A If you're talking about the independent trusts,
18 is that what you're talking about?

19 Q Yes, I am.

20 A Okay. There are some other trusts affiliated
21 that are independently governed, and that I think are
22 the Jurisdiction Trust, the Convalescent Trust, I think
23 there is an independent Refrigeration Apprenticeship
24 Trust, and I don't know if there is one Hiring Hall
25 Trust that's independent maybe. I don't have them

1 Q Where does the water come from, Clearlake?

2 A Yeah, it comes from the lake and it goes
3 through the water treatment plant.

4 Q Is that a drinking water source or just a --

5 A It is both drinking water and it runs the
6 mechanical room for the air conditioning.

7 Q And was that recently built as well?

8 A No, that was built -- that's been added onto,
9 but the original sewer plant and water treatment plant
10 were built in the '60s. But it's been added onto. The
11 more people we got coming into the property, the county
12 said you need to have a bigger sewer plant, so whatever
13 the county told us we had to do we accommodated.

14 Q Sure.

15 Talking about the major improvements, the
16 building the amphitheatre, expanding the concert hall,
17 who made the decision to spend the money to do that?

18 A Well, I mean, I made the decisions after
19 discussing it with the general manager and discussing it
20 with Frank and getting what I consider approval from
21 M. M. Smith. I'd tell Smith about it, tell him what we
22 want to do, and he would say okay, and that's what we
23 did.

24 Q Was this an informal process?

25 A Yeah.

1 A Well, I think whenever there was an improvement
2 we would sit down and decide whether to do the
3 improvement.

4 Q And we meaning who?

5 A We meaning Greg Bennett, me, sometimes Frank
6 Sullivan. Then we'd tell Mr. Smith. And then after all
7 that stuff we'd make the decision. And Mr. Bennett
8 would then get the estimates from the bidders to bid on
9 the project, and then we would approve the project or
10 not.

11 Q Would there be a --

12 A A lot of the projects were paid over time.

13 They weren't paid all at once. Some of the contractors
14 took payments for their services.

15 Q Would there be a project budget?

16 A I think we had an estimate of what we thought
17 it would cost to do this project, yeah, so that would be
18 our budget.

19 Q All right. And then how would that money be
20 obtained by the Convalescent Trust?

21 A The pension trust would -- I don't know how
22 they did it. I don't -- the administrator does it. I
23 just know that it was paid through there.

24 Q The administrator is Mr. Sullivan?

25 A Correct.

1 statements?

2 A No.

3 Q Do you consider the money sent by the Pension
4 Fund to the Convalescent Trust over the last eight years
5 or so to be a loan from the Pension Fund?

6 A No.

7 Q And why not?

8 A Because I believe it to be an investment by the
9 Pension Fund into its asset, because they're going to
10 get it back when the property is sold.

11 Q What's the basis for you feeling that that
12 money is going to come back to the Pension Fund when the
13 property is sold?

14 A The document says that.

15 Q Okay. But, I mean, do you -- is it your belief
16 that the money that you say was invested in the
17 Convalescent Trust is going to be returned at the time
18 of the sale in terms of the amount of money received by
19 the Pension Fund?

20 A I think it's like any other investment. You
21 can't get your money back from an investment until you
22 cash out. And if that's how you get your investment
23 back is when you sell the property, that's when you get
24 your investment back.

25 Q Right. When people invest they have a certain

1 occur and still be within the Collective Bargaining

2 Agreement in your estimation?

3 A I think we can reallocate any time we want with
4 30 days notice.

5 Q Have you ever seen 30 days notice being given?

6 A We reallocate probably the hourly contribution
7 probably every July 1 when we have increases coming. We
8 may need more money for Health and Welfare so we will
9 reallocate from one fund to the Health and Welfare Fund,
10 as example. And we do that every July 1.

11 Q A portion of the Health and Welfare Fund
12 contributions are sent to the Convalescent Trust. Are
13 you aware of that?

14 A Yes.

15 Q That's one-third of those contributions?

16 A Yes.

17 Q Is that one such a reallocation?

18 A Pardon me?

19 Q Is that a reallocation?

20 A No, not to the way I know reallocations, no.

21 Q Let me give you something of a hypothetical.

22 If contributions come in to the trust funds and then are
23 distributed to the various general accounts of each
24 trust, and if Mr. Sullivan takes money from one trust
25 and puts it into the account of another trust, do you

1 consider that a reallocation?

2 A No, I don't know what that is.

3 Q All right. I guess I know what a reallocation
4 isn't, but I'm still not clear what a reallocation is.

5 If it's not sending some of the Convalescent Trust,
6 sending the Convalescent Trust some of the Health and
7 Welfare Fund's contributions and it's not moving money
8 between one general account and another, how would a
9 reallocation work in fact?

10 A The reallocation I'm speaking about is, let me
11 make an example to you. The Health and Welfare Trust
12 receives from the employers \$10 an hour. The
13 Apprenticeship Trust receives \$1 an hour. If we need
14 money for Health and Welfare, we would reallocate 25
15 cents or 10 cents from Apprentice over to Health and
16 Welfare. The new hourly contribution after the
17 reallocation would be \$10.25 cents for Health and
18 Welfare and 75 cents for apprenticeship per hour.

19 Q Okay. And has there ever been 30 days notice
20 of that kind of a reallocation?

21 A Yes.

22 Q A written notice?

23 A Written notice. Well, on occasion when we get
24 the numbers done by the Health and Welfare, which is
25 lately the most important number, and we get it done

1 early, we are able then to do our reallocations and get
2 our cost item sheets prepared and send them to the
3 employers with 30 days prior to July 1. Other times we
4 are only 15 days or we're right up to the July 1, but
5 the employers know that that process takes place every
6 July 1.

7 MR. TEDESCO: Off the record.

8 (Discussion off the record.)

9 BY MR. TEDESCO:

10 Q Are you aware what the cost item sheet
11 Mr. Spargur is referring to is, Mr. Mazzola?
12 A Yeah, I do.
13 Q That's the contract cost items, let's see,
14 formulas, I guess. And Mr. Sullivan was explaining that
15 this was a negotiated item, and I did ask him whether he
16 considers it to be part of the Collective Bargaining
17 Agreement. He said yes. Do you agree with that?

18 A Yes.

19 Q When are the contract cost items negotiated?

20 A They are negotiated -- actually, the contract's
21 negotiated at a certain period. We're in a ten year --
22 the contract we last signed was a ten-year agreement.
23 We're into our seventh year, I think. And it has an
24 anniversary date of every July 1. And new cost item
25 sheets come out every July 1 according to the amount of

1 money we've negotiated each year as an increase. We get
2 a dollar a year increase. We have to allocate that
3 dollar to where we want to put it, and we put it across
4 the cost item sheet, some to taxable wage and some to
5 fringe benefits, and that creates the cost item sheet.
6 And every July 1 a new cost item sheet comes out that
7 depicts the new increase for that period July 1 of now
8 2003 to June 30 of 2004.

9 Q So the contract cost item sheets are negotiated
10 between the employer associations and the union yearly?

11 A No, they are not. The union in its
12 negotiations when it signed the original contract has a
13 section where it has the right to allocate the increase
14 every year. The increase was negotiated seven years
15 ago. We negotiated a ten-year agreement which every
16 anniversary date would get a dollar.

17 Q I see.

18 A So we know there's a dollar coming next July,
19 July of 2004. We will sit down prior to July of '04 and
20 reallocate and allocate that dollar and allocate any
21 other contributions that we have already on the old
22 contribution sheet and move the money to where we need
23 it for, whether it's Health and Welfare or Pension or
24 wherever we need the money.

25 Q So it's the union that decides where to

1 reallocate every dollar of negotiated fringe benefit
2 payments?

3 A Yes, exactly.

4 Q Are you familiar with the fact, not the process
5 but the fact that the funds employ a third party
6 administrator who among other things calculate the
7 amount of money that each fund should have received in
8 each year?

9 A No.

10 Q All right. So you're not familiar with that?

11 A No.

12 Q To your way of thinking, based on each year's
13 contract cost item sheet, though, there would be an
14 amount that each fund should receive during the course
15 of the year, if the allocations were done in accordance
16 with the contract cost items?

17 A Yeah. You're saying that if we said there was
18 a dollar an hour goes to Apprenticeship and there was a
19 million hours, a million dollars should go to
20 Apprenticeship; is that what you're saying?

21 Q Yes. Of course there are different
22 calculations depending on whether the individuals are
23 foremen or not?

24 A Yeah. Wherever the money is, it shows in the
25 cost item sheet, that's the fund it should go to.